IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.3199 of 2006

Member of Adhoc Committee,
Shri Shivaji Shikshan Prasarak
Mandal, Barshi & ors. Petitioners
Vs.
Shri Laxman Parsuram Sukle & ors. Respondents

Mr.D.W.Bhosale for petitioners.
Mr.Sachin S. Punde for resp.no.1.
Ms.V.Mhaispurkar, AGP for Resp.nos.2 and 3.

CORAM: B.H.MARLAPALLE,J.
August 30, 2006.

P.C.

. Head Mr.Bhosale, the learned counsel for the petitioner - management which is aggrieved by the impugned order dated 31/3/2006 passed by the School Tribunal at Solapur allowing the application at Exhibit 5 directing stay to the order of dismissal dated 29/9/2004.

. It is obvious that the dismissal order has been stayed after almost one and half years and it has been observed by the School Tribunal in the impugned order that the provisions of Rule 28(5) and Rule 36 were not complied with. The School Tribunal was of the opinion, prima facie, that the appellant teacher was illegally suspended and no subsistence allowance was paid to him. It was further noted

that, prima facie, the impugned dismissal order was illegal and, therefore, it deserved to be stayed.

. It must be remembered that the respondent - teacher was in service from 21/5/1990 and by the time the impugned dismissal order was received he had put in more than fourteen years of service and there was nothing reported against him during this long tenure of service. The management is agreeable to conduct a fresh enquiry into the charges levelled against the respondent - teacher and leading to the suspension order dated 29/7/2004 and the enquiry committee's report will not be taken into consideration and a fresh enquiry committee will be constituted in keeping with the provisions of Rule 36(2)b) of the MEPS Rules, 1981. The respondent - teacher shall intimate the name of his nominee within one week and the management on its part will also take expeditious steps.

. Under the circumstances, the petition is disposed off by the following directions:

. The management shall constitute a fresh enquiry committee under Rule 36(2)(b) of the MEPS

Rules, 1981 within a period of two weeks from today and the respondent-teacher shall intimate the name of his nominee within one week from today. The enquiry shall be conducted de novo in respect of the same charge-sheet and shall be completed in any case before 31st October 2006. A copy of the enquiry committee's findings shall be supplied to the respondent - teacher within one week from its receipt by the Head Master and he shall file his say within one week thereafter. The final action to be taken on the basis of the enquiry committee's report shall be concluded by 15th November 2006 and if the order goes against the respondent-teacher he may amend his pending appeal before the School Tribunal. The respondent - employee shall be treated as under suspension and shall be entitled for the payment of subsistence allowance as per the rules from 1st April 2006 till 30th November 2006 or till the final order on account of de novo enquiry is served on him whichever is earlier. The impugned order stands set aside in view of the above consent order.

(B.H.MARLAPALLE,J.)